

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TYRONE HURT,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

No. C 12-4096 PJH

ORDER RE IFP COMPLAINT

The complaint in this case was filed on August 2, 2012, along with an application to proceed in forma pauperis. The court reviewed the complaint under 28 U.S.C. § 1915(e), and determined that plaintiff “alleges no clear facts in support of his complaint, states no legitimate basis for the court’s subject matter jurisdiction, and does not identify any recognizable causes of action.” See Dkt. 8 (Aug. 23, 2012). As a result, the court dismissed the complaint, but granted leave to amend. Specific instructions on how to amend were provided in the dismissal order and a deadline of September 21, 2012 was set. The deadline has passed and plaintiff has not filed the amended complaint as ordered.

Indeed, instead of filing an amended complaint, plaintiff filed a notice of appeal on September 10, 2012. The appeal has since been dismissed, and this case is still pending. Rather than issue an order to show cause why the complaint should not be dismissed with prejudice for failing to file an amended complaint, the court will afford plaintiff one final opportunity to amend his complaint in accordance with this court’s order of August 23, 2012. The amended complaint must be filed no later than December 4, 2012 or the matter will be dismissed for failure to prosecute.

IT IS SO ORDERED.



United States District Court
For the Northern District of California

Dated: November 9, 2012

PHYLLIS J. HAMILTON
United States District Judge